

CHAPTER 11
COLLECTION OF PUBLIC ASSISTANCE DEBTS
[Prior to 2/11/87, Human Services[498]]

PREAMBLE

These rules define the department's policies regarding the collection of public assistance debts. These rules outline what information must be maintained for each claim for an overpayment or other debt owed the department and how the payments are to be applied. These rules also outline the criteria for withholding part or all of federal or state refunds or other state payments owed to the debtor and how they are applied to the debtor's claim for payment of the debt.

441—11.1(217) Definitions.

"Current" shall mean that amount which is due and owing within the previous 12 months from the date of submission to the department of administrative services or that amount which is due and owing from the date the repayment agreement or court order is implemented, if less than 12 months, before the date of submission to the department of administrative services.

"Current repayment" shall mean that payment of the cumulative sum due and owing in accordance with a repayment agreement or court order for the preceding 12 months or the date of the order or agreement if the order or agreement is more recent.

"Debtor" shall mean a current or former recipient of public assistance that has been determined by the department to be responsible for the repayment of a particular debt. For food assistance, "debtor" shall include all adult members of the food assistance household participating at the time the food assistance overpayment or program violation occurred and shall include nonrecipients found guilty of violating food assistance program rules by committing an act such as, but not limited to, trafficking. For child care assistance, "debtor" may include the current or former provider or current or former recipient of child care assistance. For Medicaid, "debtor" shall include any Medicaid member or nonmember who fraudulently receives services or owes a debt of unpaid premium payments for medical assistance.

"Department" shall mean the department of human services.

"Public assistance" shall mean family investment program, food assistance, Medicaid, state supplementary assistance, PROMISE JOBS, child care assistance, refugee cash assistance, IowaCare, and HAWK-I program.

"Repayment agreement" shall mean an agreement entered into voluntarily between the department and the debtor for the repayment of debts. Agreements shall be made on Form 470-0495, Agreement to Pay a Debt, or on a notice of debt listed in subrule 11.2(2).

"Written notification" shall mean the notification sent to a debtor by the department on Form 470-1668, Notice of Setoff of an Iowa Income Tax Refund for Debts Owed the Department of Human Services, Form 470-4139, Notice of Income Offset Against State Warrants, and Form 470-4140, Notice of Income (Payroll) Offset.

[ARC 7829B, IAB 6/3/09, effective 7/8/09; ARC 9701B, IAB 9/7/11, effective 9/1/11]

441—11.2(217) Establishment of claim.

11.2(1) Accounts. The department shall maintain an account for each debt that has occurred. The account shall contain the following:

- a. A debtor name and account number.
- b. Program in which the debt occurred.
- c. Date the debt was discovered.
- d. Inclusive dates of the debt.
- e. Total dollar amount of each debt.
- f. Primary cause of the debt.
- g. Any transaction applied to this debt.

11.2(2) Notice of debt. A claim is established when the first notice of the debt is issued to the household on one of the following forms:

- a. Form 470-0338, Demand Letter for Food Assistance Agency Error Overissuance (no longer issued).
- b. Form 470-2616, Demand Letter for FIP/RCA Agency Error Overissuance (no longer issued).
- c. Form 470-2891, Notice of Medical Assistance Overpayment.
- d. Form 470-3486, Demand Letter for Food Assistance Intentional Program Violation Overissuance (no longer issued).
- e. Form 470-3487, Demand Letter for Food Assistance Inadvertent Household Error Overissuance (no longer issued).
- f. Form 470-3490, Demand Letter for FIP/RCA Client Error Overissuance (no longer issued).
- g. Form 470-3984, Notice of Healthy and Well Kids in Iowa (HAWK-I) Premium Overpayment.
- h. Form 470-3990, Demand Letter for PROMISE JOBS Agency Error Overissuance (no longer issued).
- i. Form 470-3991, Demand Letter for PROMISE JOBS Client Error Overissuance (no longer issued).
- j. Form 470-3992, Demand Letter for PROMISE JOBS Provider Error Overissuance (no longer issued).
- k. Form 470-4179, Notice of Food Assistance Debt.
- l. Form 470-4530, Notice of Child Care Assistance Overpayment.
- m. Form 470-4668, Notice of Food Assistance Overpayment.
- n. Form 470-4683, Notice of FIP or RCA Overpayment.
- o. Form 470-4688, Notice of PROMISE JOBS Overpayment.

11.2(3) *Change in debt.* An additional notice of debt shall be issued if a change occurs in the amount or period of the debt.

11.2(4) *Collection action.* No collection action shall be initiated on:

- a. A debt for which no notice of debt has been issued to the household.
- b. A debt that is in appeal status.
- c. A debt that is in suspended status due to an exception to policy.

[ARC 7829B, IAB 6/3/09, effective 7/8/09]

441—11.3(217) Application of payment. Payment shall be applied only to debts subject to collection pursuant to subrule 11.2(4).

11.3(1) *Application of payment to single program area.*

- a. If there is more than one debt in a program, payment shall be applied:
 - (1) First to all debts which have an agreement in chronological order of discovery, and
 - (2) Then to debts which do not have an agreement in chronological order of discovery until all debts have been paid in full or the full payment amount has been exhausted.
- b. For food assistance, payment shall be applied first to all debts with an agreement and then to debts without an agreement. Within those two groupings, payment shall be applied in the following order:
 - (1) First to state-only debts in chronological order of discovery,
 - (2) Then to intentional program violation (IPV) debts in chronological order of discovery,
 - (3) Then to inadvertent household error (IHE) debts in chronological order of discovery, and
 - (4) Then to agency error debts in chronological order of discovery.

11.3(2) *Application of payment to multiple program areas.* If there are debts in more than one program area of public assistance, payments received shall be applied to those program areas as indicated by the mode of repayment (food assistance benefits, FIP benefits) or as indicated by the client at the time of payment.

11.3(3) *Application of undesignated cash payment.* If an undesignated cash payment is received, it shall be applied to each program area proportionally based on the cumulative balance of all debts in all program areas combined.

11.3(4) *Application of payment prohibited.* Rescinded IAB 11/7/07, effective 11/1/07.

441—11.4(217) Setoff against state income tax refund, rebate, or other state payments, including, for example, state employee wages.**11.4(1) Criteria for setoff.**

a. A claim against a debtor may be made by the department for public assistance debts when:

(1) A debtor has failed to negotiate a repayment agreement for that program area of public assistance, or

(2) A repayment agreement is not current, and

(3) The cumulative balance of the applicable debts in 11.4(1)“a”(1) and (2) exceeds \$50.

b. A claim against a debtor will not be made by the department for debts when:

(1) The debt is in suspended status due to an exception to policy or is in an appeal status, or

(2) The debt is being recovered through grant or benefit reduction.

11.4(2) Frequency of submission. The department shall submit to the department of administrative services twice each month a list of those debtors who have a debt meeting the criteria in subrule 11.4(1).

11.4(3) Pre-setoff notice. The department shall mail written notification to a debtor to inform the debtor of the amount the department intends to claim and apply to debts in each program when:

a. The department is notified by the department of administrative services that the debtor is entitled to a state income tax refund, rebate, or other state payment;

b. The department makes claim against the debtor.

11.4(4) Method for division of joint payments. When either spouse wishes to request a division of a jointly or commonly owned right to payment, a written request shall be submitted to the department within 15 days after the written notification is mailed. When the request is received within the 15-day limit, the spouse’s proportionate share of a jointly or commonly owned right to payment, as determined by the department of administrative services, shall be released by the department of administrative services unless:

a. Other claims are made on that portion of the jointly or commonly owned right to payment, or

b. That spouse was also a member of the same household and the spouse’s income and resources were or should have been considered in the calculation of public assistance.

11.4(5) Appeal rights. When a debtor wishes to contest the claim of the department, a written request shall be submitted to the department within 15 days after the written notification is mailed. When the request is received within the 15-day limit, a hearing shall be granted pursuant to rules in 441—Chapter 7.

a. If the department is upheld in the final decision, the setoff process shall continue and the refund, rebate, or other state payment shall be applied to the appropriate delinquent debts.

b. If the department is reversed in the final decision, the debtor’s refund, rebate, or other state payment shall be released to the debtor by the department of administrative services.

11.4(6) Debt setoff. If the department has not received a request for an appeal hearing or a request for division of a jointly or commonly owned right to payment within 15 days after the date the written notification is mailed, the department shall notify a debtor of the final decision regarding the claim by mailing the Debt Setoff Credit Letter, Form 470-1667, to the debtor.

11.4(7) Application of setoff. The department shall apply any setoff received from the department of administrative services as a result of this rule to the debtor’s debts as indicated on the written notification mailed to the debtor and in accordance with rule 441—11.3(217).

Any amount remaining after the setoff shall be released back to the individual.

441—11.5(234) Setoff against federal income tax refund or other federal payments, including, for example, federal employee wages.**11.5(1) Criteria for setoff.**

a. Debtors not participating in the food assistance program shall be subject to collection action through the treasury offset program (TOP) which includes, but is not limited to, federal salary offset and federal tax refund offset.

(1) Debtors shall be referred to TOP if they are delinquent in repaying their food assistance debt and there is a claim or combination of claims with an unpaid balance which exceeds \$25.

(2) No claim which is less than three months old or more than ten years old as of January 31 of the offset year shall be referred. EXCEPTION: Claims which have had a final judgment entered are not subject to the ten-year time limit.

(3) Debtors are delinquent in repaying their food assistance debt if:

1. A repayment agreement has not been signed and 120 days have elapsed since the due date of the demand letter as defined in 441—subrule 65.21(4) minus any days the claim was not subject to collection action because of an appeal.

2. A repayment agreement has been signed but the debtor has failed to make the agreed-upon payments and has failed to make up the missed payments. The debtor shall be referred to TOP when 120 days have elapsed since the first of the month following the month that the debtor failed to make the agreed-upon payment and has not subsequently made up the missed payment.

b. A claim against an individual will not be referred to TOP by the department of inspections and appeals (DIA) for debts when:

(1) The debt is in suspended status due to an exception to policy or is in an appeal status, or

(2) The debt is being recovered through benefit reduction.

11.5(2) *Setoff under TOP.* DIA shall, by December 1 of each year, submit a notification of liability for delinquent claims to the Department of the Treasury.

11.5(3) *Pre-setoff notice.* DIA shall mail Form 470-3488, Treasury Offset Program (TOP) 60-Day Notice, to a debtor identifying the amount the department intends to refer to TOP for offset.

11.5(4) *Offset fee.* For each offset that the Treasury Department effects against an individual referred to TOP, Treasury will charge the individual a fee.

11.5(5) *Appeal rights.* When an individual wishes to contest the delinquent status of a claim as identified by DIA, a written request shall be submitted to DIA within 60 days of the date of the pre-offset notice. When the request is received within the 60-day limit, a review shall be granted.

DIA shall determine if the claim is past due and legally enforceable and shall notify the individual in writing of the decision.

11.5(6) *Application of setoff.* DIA shall apply any setoff received as a result of this rule to the individual's food assistance debts.

Any amount remaining after the setoff shall be released back to the individual.

[ARC 2884C, IAB 1/4/17, effective 12/14/16]

These rules are intended to implement Iowa Code sections 217.34, 234.12, 239B.14, and 249A.5.

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